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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,	CR 23-101-BLG-SPW
Plaintiff,	
vs.	OFFER OF PROOF
ANTHONY JAMES CROSS,	
Defendant.	

THE CHARGE

The defendant, Anthony James Cross, is charged by Indictment with Threats to Injure and Murder a United States Senator (Count 1) and Threats Against the President (Count 2), in violation of 18 U.S.C. §§ 115(a)(1)(B) and 871(a), respectively.

PLEA AGREEMENT

Cross will enter a voluntary plea of guilty to Count 1 of the Indictment pursuant to a plea agreement. The plea agreement represents, in the government's view, the most favorable disposition of the case against the defendant. *See, e.g., Missouri v. Frye*, 566 U.S. 134 (2012).

ELEMENTS

In order for the defendant to be found guilty of possession of Threats Against a United States Senator, in violation of 18 U.S.C. § 115(a)(1)(B) and (b)(4) government must prove each of the following elements beyond a reasonable doubt:

First, the defendant made a threat;

Second, the threat to assault or murder was made against a United States official;

Third, the defendant made the threat with the intent to impede, intimidate, interfere with, or retaliate against that official; and,

Fourth, the defendant made the threat while the United States official was engaged in or on account of the performance of his duties.

Fifth, the defendant acted recklessly in transmitting the threat, that is with a conscious disregard for the substantial and unjustifiable risk that others could regard his statements as threatening violence.

United States officials includes members of Congress.

PENALTY

Count 1 of the offense carries an imprisonment of 10 years, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

1. On April 17, 2023, at 5:34 am and 5:37 am, respectively, two voicemails were left at Senator Jon Tester's offices in Billings, Montana and Washington, DC office. Left by phone number x9156, the caller stated that "Jon Tester...is gonna die a horrible death and so is your family...you're not gonna do anything about this." The 5:37 am call stated that "I swear to God, you and your family will suffer such a horrendous death. And its not going to be by some white boy, no its gonna be by some Indian like me...I'm gonna kill every single one of your fucking family members."
2. Law enforcement ascertained that the phone number was attributable to Anthony Cross of Billings.
3. On April 25, 2023, Google contacted the FBI regarding multiple comments made to YouTube videos flagged as being threatening in nature. The comments were attributed to Cross's YouTube account. They included the following made in April 2023:
 - "I'm going to kill every trans I see."

- “We are actively hunting down and killing any trans in our major cities. You won’t hear about it until trump overcomes his ‘indictment’ and Biden loses the ‘re-election.’”
- “I will kill Hunter in a way that will make Auschwitz and Sinaloa look like a fucking puppet show.”
- “I’m gonna slit Joe Bidens nieces throat”
- “I will personally kill Joe Biden”

4. On April 27, 2023, Cross was interviewed and, after waiving his *Miranda* rights, admitting making the comments posted on YouTube and had used his cellular phone, x9156, to make the comments.

DATED this 4th day of January, 2024.

TIMOTHY J. RACICOT
First Assistant United States Attorney
Attorney for the United States, Acting under
Authority Conferred by 28 U.S.C. § 515

/s/ Zeno B. Baucus
ZENO B. BAUCUS
Assistant U.S. Attorney